The Minutes

August 28, 2006

At 9:34 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Raye, Associate Justice; Cantil-Sakauye, Associate Justice; and Ellis, bailiff.

C048668 STATE COMPENSATION INSURANCE FUND v. WORKERS'

COMPENSATION APPEALS BOARD et al.

C049286 SANDHAGEN v. WORKERS' COMPENSATION APPEALS BOARD et al.

Cause called. Don E. Clark argued for respondent. Marguerite Sweeney argued for respondent Sandhagen. Charles Rondeau argued for Amicus Curiae California Applicants Attorneys Assn. Neil P. Sullivan argued for WCAB. Cause submitted.

At 10:36 a.m., the court recessed. At 10:40 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice and Cantil-Sakauye, Associate Justice.

C049744 THE PEOPLE v. XIONG

Cause called. William J. Capriola, court appointed counsel, argued for appellant. Melissa J. Lipon, Deputy Attorney General, argued for respondent. Cause submitted.

CO49919 CALIFORNIA FARM BUREAU FEDERATION et al. v. CALIFORNIA WILDLIFE CONSERVATION BOARD et al. and MORA COUNTY OF COLUSA v. CALIFORNIA WILDLIFE CONSERVATION BOARD et al.

Cause called. Deborah A. Wordham, Deputy Attorney General, argued for appellants. Timothy M. Taylor argued for cross-complainant and respondent. Alan N. Bick, argued for plaintiffs and respondents. Brenda Washington Davis argued for intervener and respondent. Cause submitted.

At 11:24 a.m., the court recessed. At 1:59 p.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

C050393 ROGERS v. DEPARTMENT OF MOTOR VEHICLES

Cause called. Jonathan C. Turner argued for appellant. Tamara L. Morgan, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:31 p.m., the court recessed until 9:30 a.m., Monday, September 18, 2006.

The Minutes

August 28, 2006, continued

C049593 THE PEOPLE v. HIGGINBOTHAM (Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

We Concur: Raye, J.

Butz, J.

C050880 THE PEOPLE v. ADUDDELL (Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

We Concur: Raye, J.

Butz, J.

C051489 THE PEOPLE v. COLBERT (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We Concur: Blease, Acting P.J.

Cantil-Sakauve, J.

C051883 THE PEOPLE v. COFFEY (Not for Publication)

The judgment is modified to strike the habitual traffic offender classification. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

DAVIS, J.

We Concur: Scotland, P.J.

Hull, J.

C052266 THE PEOPLE v. BUGENIG (Not for Publication)

The order sustaining counts III and IV is reversed and those counts are dismissed... The superior court is directed to prepare an amended abstract of judgment reflecting these changes and to forward a copy thereof to the Department of Corrections and Rehabilitation.

BLEASE, Acting P.J.

We Concur: Sims, J.

Butz, J.

C050101 HOBBS v. HOBBS-WLAS (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Butz, J.

The Minutes

August 28, 2006, continued

C050789 VANDERMOON et al. v. SANWONG et al. (CERTIFIED FOR PUBLICATION)

The judgment is affirmed.

Blease, Acting P.J.

We Concur: Morrison, J.

Robie, J.

C051118 In re DANIELLE R.; THE PEOPLE v. DANIELLE R.

(Not for Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Davis, Acting P.J.

Hull, J.

C049783 RANCHO MURIETA AIRPORT, INC. v. COUNTY OF SACRAMENTO and DEPARTMENT OF TRANSPORTATION (CERTIFIED FOR PUBLICATION)

THE COURT:

The opinion in the above-entitled matter filed on July 27, 2006, was not certified for publication in the Official Reports. For good cause, it now appears that the opinion should be published in the Official Reports and it is so ordered. BY THE COURT:

RAYE, Acting P.J. MORRISON, J. HULL, J.

August 29, 2006

C045935 THE PEOPLE v. GONZALEZ et al. (Certified for Partial Publication)

The trial court is directed to prepare a corrected abstract of judgment... As so modified, the judgments are affirmed. The trial court is directed to forward certified copies of the corrected and amended abstracts of judgment to the Department of Corrections and Rehabilitation.

MORRISON, J.

I Concur: Blease, Acting P.J.

With regard to part II of the Discussion of the majority opinion and opinion's disposition, I respectfully dissent...

Robie, J.

The Minutes

August 29, 2006, continued

C048241 THE PEOPLE v. MURPHY (Not for Publication)

The judgment is affirmed.

BUTZ, J.

Nicholson, Acting P.J. We Concur:

Raye, J.

THE PEOPLE v. MASSIE C050124 (CERTIFIED FOR PUBLICATION)

The judgment is affirmed.

SCOTLAND, P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

C050993 THE PEOPLE v. GRIFFEN (Not for Publication)

The appeal is dismissed.

ROBIE, J.

We Concur: Davis, Acting P.J.

Nicholson, J.

C051598 THE PEOPLE v. PRICE (Not for Publication)

The appeal is dismissed.

SCOTLAND, P.J.

We Concur: Nicholson, J.

Raye, J.

C051954 THE PEOPLE v. HAHN (Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We Concur: Davis, J.

Hull. J.

C049998 SINGH v. SOUTHGATE PROFESSIONAL CONDOMINIUM OWNERS ASSOCIATION (Not for Publication)

> The order (judgment) dismissing appellant's action is affirmed. Respondent shall recover its costs on appeal. (Cal. Rules of Court, rule 27 (a)(1).) Respondent's requested for sanctions is denied.

> > RAYE, J.

We Concur: Sims, Acting P.J.

Cantil-Sakauye, J.

The Minutes

August 29, 2006, continued

C051793 LAVENDA v. RODOWICK (Not for Publication)

The judgment is affirmed. Rodowick shall recover his costs on appeal.

(Cal. Rules of Court, rule 27(a)(1).)

ROBIE, J.

We Concur: Hull, Acting P.J.

Cantil-Sakauye, J.

C051130 In re D.A. et al.; SHASTA COUNTY DEPARTMENT OF SOCIAL SERVICES v. JEROME A. (Not for Publication)

The finding that appellant Jerome A. is the alleged father of D.A. and J.A. is modified... The juvenile court is to prepare amended dispositional orders and findings to reflect this modification. As modified, the judgment of disposition is affirmed.

NICHOLSON, J.

We Concur: Sims, Acting P.J.

Rave, J.

C051767 In re CONNOR B.; AMADOR COUNTY HEALTH AND HUMAN SERVICES AGENCY v. PETER B. (Not for Publication)

The orders of the juvenile court are affirmed.

ROBIE. J.

We Concur: Scotland, P.J.

Raye, J.

C049340 DAIMLERCHRYSLER MOTORS COMPANY et al. v. WILLIAMS, INC., et al. (CERTIFIED FOR PUBLICATION)

THE COURT:

For good cause it now appears that the opinion in the above captioned case filed herein on August 3, 2006, should be published in the Official Reports and it is so ordered.

FOR THE COURT:

SIMS, Acting P.J. NICHOLSON, J. ROBIE, J.

The Minutes

August 30, 2006

MISC ORDER 2006-012

Associate Justice George W. Nicholson is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court. rules 75, 77, and 78, during the absence of the Presiding Justice from the court on August 31, 2006. Associate Justice Fred Morrison is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court. rules 75, 77, and 78, during the absence of the Presiding Justice from the court on September 1, 2006, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Scotland, P.J.

C049214 THE PEOPLE v. GALINDO

(CERTIFIED FOR PUBLICATION)

The opinion in the above entitled matter filed on August 15, 2006, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. FOR THE COURT:

SIMS, Acting P.J. MORRISON, J. BUTZ, J.

C051236

In re O.C.; THE PEOPLE v. O.C.

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Morrison, J. Robie, J.

C051516

In re KAYLEIGH G. et al.; LASSEN COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. SHAWNA C. (Not for Publication)

The orders terminating parental rights are reversed and the matter is remanded for the limited purpose of allowing the juvenile court to inquire whether either parent claims Indian heritage...

BUTZ. J.

I concur: Blease, Acting P.J.

I concur in the judgment and in part II of the opinion...

Sims, J.

The Minutes

August 31, 2006

C047366 THE PEOPLE v. NELSON (Certified for Partial Publication)

The judgment is affirmed. SCOTLAND, P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

C049018 THE PEOPLE v. PALMER (Not for Publication)

The judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.

Davis, J.

C049570 THE PEOPLE v. WILLIAMS (Not for Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Nicholson, Acting P.J.

Robie, J.

C050155 THE PEOPLE v. HILL (Certified for Partial Publication)

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract reflecting the modification and forward a copy to the Department of Corrections and Rehabilitation.

(CERTIFIED FOR PARTIAL PUBLICATION.)

NICHOLSON, J.

We Concur: Scotland, P.J.

Sims, J.

C049043 RUDDELL v. VISCIA (Not for Publication)

The order denying Viscia's special motion to strike is reversed. The matter is remanded to the trial court to determine whether Ruddell had established that there is a probability he will prevail on his claims. Viscia shall recover his costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)

ROBIE, J.

We Concur: Scotland, P.J.

Davis, J.

The Minutes

August 31, 2006, continued

C049798

DELTAKEEPER v. OAKDALE IRRIGATION DISTRICT et al.

DELTAKEEPER et al. v. MERCED IRRIGATION DISTRICT et al.

DELTAKEEPER et al. v. SOUTH SAN JOAQUIN IRRIGATION DISTRICT et al.

(Not for Publication)

In the Oakdale Irrigation District case, the judgments in favor of the Governor's Office of Planning and Research and its acting director, Jan Boel, the State Clearinghouse and it director, Terry Roberts, and Oakdale Irrigation District are reversed, with directions for the trial court to enter judgment in favor of Deltakeeper and issue a writ commanding Oakdale Irrigation District to set aside it's negative declaration and conduct further proceedings in conformity with the California Environmental Quality Act. Deltakeeper shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)

In the Merced Irrigation District case, the judgment is affirmed. Deltakeeper, San Joaquin Raptor Rescue Center, Protect Our Water, and Central Valley Safe Environmental Network shall recover their costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)

In the South San Joaquin County Irrigation District case, the judgment is affirmed. Deltakeeper, San Joaquin Raptor Rescue Center, Protect Our Water, and Central Valley Sage Environmental Network shall recover their costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)

With respect to all cross-appeals, the parties shall bear their own costs. (Cal. Rules of Court, rule 27(a)(4).)

SIMS, J.

We Concur: Scotland, P.J.

Blease, J.

C049855

MACINTYRE et al. v. CITY NATIONAL BANK et al.

(Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We Concur: Davis, Acting P.J.

Butz, J.

C050296

STATE OF CALIFORNIA ex rel. ALAN GRAYSON v. PACIFIC BELL TELEPHONE CO. et al. (CERTIFIED FOR PUBLICATION)

The judgment is affirmed. Defendants shall recover their costs on appeal.

(Cal. Rules of Court, rule 27(a)(1).)

RAYE, J.

We Concur: Sims, Acting P.J.

Hull, J.

The Minutes

August 31, 2006, continued

C050330 STATE FARM GENERAL INSURANCE COMPANY v. J.R. et al., Minors, etc., et al. (Not for Publication)

The judgment is affirmed. State Farm shall recover its costs on appeal.

(Cal. Rules of Court, rule 27(a).)

BUTZ, J.

We Concur: Sims, Acting P.J.

Robie, J.

C050624 MORA v. DAVIS (Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We Concur: Morrison, J.

Hull, J.

C050211 In re MARY D.; MONO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. ANTHONY D. and CHALSEY D.

(Not for Publication)

The judgment is affirmed.

MORRISON, Acting P.J.

We Concur: Robie, J.

Butz, J.

C051952 In re SETH K.; SUTTER COUNTY DEPARTMENT OF HUMAN SERVICES v. ROBERT K. (Not for Publication)

The orders of the juvenile court are affirmed.

HULL, J.

We Concur: Scotland, P.J.

Davis, J.

C048336 THE PEOPLE v. UNION PACIFIC RAILROAD COMPANY et al.

(CERTIFIED FOR PUBLICATION)

THE COURT:

It is ordered that the opinion filed herein on August 2, 2006, be modified as follows...

... These modifications do not change the judgment.

The petition for rehearing is denied.

FOR THE COURT:

SCOTLAND, P.J. MORRISON, J.

CANTIL-SAKAUYE, J.

The Minutes

August 31, 2006, continued

C051646 JOHNSON v. SUPERIOR COURT OF SACRAMENTO COUNTY and ROSENTHAL, et al. (Not for Publication)

The alternative writ is discharged, and a peremptory writ shall issue directing the trial court to vacate its order of October 5, 2005, and enter a new and different order denying defendants' motion for summary judgment. The stay issued by this court shall remain in effect until full compliance by respondent or until this opinion becomes final as to this court. Plaintiff shall recover costs incurred in these writ proceedings.

BLEASE, Acting P.J.

We Concur: Davis, J.

Hull, J.

C051263 WELCHER v. WORKERS' COMPENSATION APPEALS BOARD and HAT CREEK CONSTRUCTION, INC. et al.
C051409 STRONG v. WORKERS' COMPENSATION APPEALS BOARD AND CITY

AND COUNTY OF SAN FRANCISCO

C051790 LOPEZ v. WORKERS' COMPENSATION APPEALS BOARD and DEPARTMENT OF SOCIAL SERVICES et al.

C051894 WILLIAMS, JR. v. WORKERS' COMPENSATION APPEALS BOARD and UNITED AIRLINES

In the Welcher and Lopez cases (cases Nos. C051263 and C051790), the WCAB's opinions and orders denying reconsideration are affirmed.

In the Strong case (case No. C051409), the WCAB's opinion and decision after reconsideration is affirmed.

In the Williams case (case No. 051894), the WCAB's order denying reconsideration is affirmed.

The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 56 (1) (2).)

ROBIE, J.

I concur: Butz, J.

I concur in Justice Robie's fine opinion.

I write separately to add another reason why, with respect, I think *E & J Gallo Winery v. Workers' Comp. Appeals Bd.* (2005) 134 Cal. App.4th 1536 was wrongly decided...

Sims, Acting P.J.

The Minutes

September 1, 2006

C049653 THE PEOPLE v. GALLOW et al. (Not for Publication)

As to Shamarra, the judgment (order granting probation) is reversed, and the case is remanded to the trial court for further proceedings on the issue of reimbursement of attorney fees. As to Lucretia and Singleton, the judgments of conviction are affirmed, but the orders for reimbursement of the cost of legal assistance are reversed and the cases are remanded to the trial court for further proceedings on the issue of reimbursement of attorney fees.

ROBIE, J.

We Concur: Davis, Acting P.J.

Hull, J.

C049906 THE PEOPLE v. MATSUMOTO (Not for Publication)

The judgment (order granting probation) is reversed, and the trial court is directed to enter a new and different order granting defendant's suppression motion.

BLEASE, Acting P.J.

We Concur: Robie, J.

Butz, J.

C051079 THE PEOPLE v. SEVILLA (Not for Publication)

Jurisdiction in case No. 032653 is transferred to the appellate division of the superior court...

HULL, J.

We Concur: Scotland, P.J.

Davis, J.

C051805 THE PEOPLE v. MORA (Not for Publication)

The judgment is modified... As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

HULL, J.

We Concur: Sims, Acting P.J.

Davis, J.

C049458 ADISESH v. NANJAPPA and BETADPUR (Not for Publication)

Except as to that portion of the complaint seeking recovery of \$45,000 paid into Nanjappa's bankruptcy estate, the judgment of dismissal is reversed. The parties shall bear their own costs on appeal.

RAYE, J.

We Concur: Sims, Acting P.J.

Cantil-Sakauye, J.

The Minutes

September 1, 2006, continued

C049936 SERVICES EMPLOYEES INTERNATIONAL UNION, LOCAL 1000 (CSEA) v.

DEPARTMENT OF PERSONNEL ADMINISTRATION

(CERTIFIED FOR PUBLICATION)

The judgment is affirmed.

RAYE, J.

We Concur: Davis, Acting P.J.

Hull, J.

C049903 In re WALTER M.; THE PEOPLE v. WALTER M.

(Not for Publication)

The juvenile court's order denying the minor good time/work time credits

is affirmed.

SCOTLAND, P.J.

We Concur: Davis, J.

Raye, J.

C050037 In re ULISES P.; THE PEOPLE v. ULISES P.

(Not for Publication)

The judgment (order) of the juvenile court is affirmed.

ROBIE, J.

We Concur: Raye, Acting P.J.

Morrison, J.